

Message Text

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TO AMEMBASSY JAKARTA

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E.O. 11652: N/A

TAGS:EFIN

SUBJECT: P.T. UNITED COCONUT (TINA) INDONESIA(THE "COMPANY")

FOR YOUR INFORMATION THE FOLLOWING LETTER WAS TELEXED TO
JOSEPH JORDAN AND PICA UNDER DATE OF APRIL 19, 1974:

"MR. JOSEPH JORDAN
ROOM E 9, INTERNATIONAL BLDG.
360 ORCHARD ROAD
SINGAPORE 9

SUBJECT: P.T. UNITED COCONUT (TINA) INDONESIA(THE "COMPANY")

DEAR MR. JORDAN:

REF: YOUR TELEXES OF APRIL 7 AND 12, 1974.

OPIC HAS ALWAYS SUPPORTED MANagements OF THE COMPANY ACCORDING
TO ITS ARTICLES OF ASSOCIATION (AND ORGANS ESTABLISHED BY
OR UNDER IT) AND INDONESIAN LAW, AND HAS NEVER TAKEN ANY ACTION
AS, OR INITIATED ANY ACTION BY , SUCH MANAGEMENT. OPIC AS A
LENDER IS OBVIOUSLY INTERESTED IN THE SUCCESS AND PROBLEMS OF
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THE COMPANY, AND IN SUCH ROLE OCCASSIONALLY UPON REQUEST

HAS COMMENTED ON PROPOSALS MADE BY MEMBERS OF MANAGEMENT. WE REMIND YOU THAT OPIC EXPECTS THE COMPANY'S BOARDS OF DIRECTORS AND COMMISSIONERS (AND THE EXECUTIVE COMMITTEE ESTABLISHED BY THEM) TO SOLVE COMPANY PROBLEMS, TO PROTECT OPIC'S LOAN, AND TO OPERATE A VIABLE PROJECT. DIFFERENCES OF OPINION SHOULD BE RESOLVED BY THESE BOARDS FOR THE BENEFIT OF THE COMPANY.

CONSIDERING THE POWERS GRANTED TO THE BOARDS OF DIRECTORS AND COMMISSIONERS AND ALL FACTORS INVOLVED, AID MISSION REPRESENTATIVES, ACTING FOR OPIC, HAD NO OBJECTION TO THE EXECUTIVE COMMITTEE PROPOSED BY THE MAJORITY OF THE BOARD OF DIRECTORS.

BY TELEX TO PICA OF MARCY 15, 1974 OPIC SUPPORTED THE APPOINTMENT BY THE BOARD OF DIRECTORS OF GEOFFERY HODGSON AS ACTING GENERAL MANAGER TO BRING THE PLANT FACILITIES TO A SPEED COMPLETION AT THE LEAST POSSIBLE EXPENSE. THE TELEX ALSO ADVISED PICA THAT "IF MR. JORDAN PREFERS, OPIC SEES NO OBJECTION TO THE APPOINTMENT OF ENGINEER KELLY AS AN ASSISTANT TO MR. HODGSON.

PLEASE ADVISE THE SOURCE AND RATIONALE YOUR OPINION THAT ESTABLISHMENT EXECUTIVE COMMITTEE AND APPOINTMENT HODGSON AS ACTING GENERAL MANAGER NOT LEGALLY TAKEN CORPORATE ACTIONS. UNDERSTAND FROM MILTON OF PICA THAT ON FEBRUARY 11 AND 12 YOU AGREED TO PARTICIPATE IN EXECUTIVE COMMITTEE AND APPROVED APPOINTMENT HODGSON AND PROPOSED HIS TITLE BE RESIDENT PROJECT DEVELOPMENT MANAGER.

CONTRARY TO STATEMENT IN PARA 1 OF YOUR APRIL 7 TELEX, OPIC HAS NEVER HAD ANY INTEREST IN BOARD REPRESENTATION OF PICA OR ANY OTHER SHAREHOLDER, AND NONE OF THEM HAS EVER REPRESENTED OPIC.

WE REJECT YOUR STATEMENTS THAT OPIC IS USING "STRONG ARM METHODS" OR SIDING WITH "A PRIVATE FOREIGN MERCHANT BANK AGAINST THE AMERICAN SPONSOR OF THE PROJECT". OPIC EXPECTS COMPANY TO BE MANAGED AS REFERRED TO IN PARA 1, ABOVE, AND WANTS A SUCCESSFUL OPERATION, WITH REPAYMENT IN ACCORDANCE WITH THE LOAN AGREEMENT TERMS.

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SECTION 8.5(F)(III) OF THE LOAN AGREEMENT OF AUGUST 10, 1972, READS AS FOLLOWS:

P.T. UNITED SHALL NOT: "ENTER DIRECTLY OR INDIRECTLY INTO ANY ARRANGEMENT FOR MARKETING OR PROVISIONS OF GOODS OR SERVICES, OR OTHERWISE WITH UNITED U.S. OR ANY OTHER SHAREHOLDERS OF THE COMPANY UNLESS THE TERMS AND CONDITIONS OF SUCH ARRANGE-

MENT HAVE BEEN APPROVED BY THE LENDER".

YOU HAVE STATED THAT YOU HAVE AGREED WITH P.T. POLECO COMPANY (A STOCKHOLDER) FOR IT TO SUPPLY ONE-THIRD OF THE REQUIRE COCONUTS. YOU HAVE NOT PRESENTED SUCH ARRANGEMENT TO POPIC FOR ITS APPROVAL, NOR HAVE YOU, YOUR ATTORNEYS OR OTHERS PRESENTED ANY EVIDENCE THAT POLECO IS SEEKING CONTROL OF ALL THE COCONUT SUPPLY. YOUR COMPLAINT THAT POLECO IS SEEKING CONTROL OF P.T. UNITED COCONUT SHOULD BE VIEWED WITH REFERENCE TO ARTICLE 4, SEC. 4 OF ARTICLE OF ASSOCIATION, WHICH REQUIRES 50 PERCENT CONTROL BY POLECO AFTER FIVE YEARS FROM FEBRUARY 17, 1972.

WE UNDERSTAND THAT POLECO HAS ACCEPTED WITH UNITED U.S. OFFERS OF 75,000 SHARES AT \$1.50 PER SHARE AND OF 75,150 SHARES AT \$2.10 PER SHARE, SUBJECT TO OPIC AND PICA'S APPROVAL. WE FURTHER UNDERSTAND PICA HAS CONDITIONED ITS CONSENT FOR THE SALE OF THE UNITED U.S. SHARES TO THE PURCHASE BY POLECO OF ITS 137,500 SHARES AT \$1.50 PER SHARE. THESE SALES AND PURCHASES DO NOT INJECT ADDITIONAL FUNDS INTO THE PROJECT; THEY MERELY EXCHANGE SHARES. IS POLECO WILLING AND DOES IT HAVE THE FINANCIAL ABILITY TO ASSURE UNITED U.S. OBLIGATIONS UNDER THE COMPLETION AGREEMENT, NOW ESTIMATED AT \$470,000. UNLESS AN ARRANGEMENT SATISFACTORY TO OPIC IS AGREED UPON UNITED U.S. WILL OF COURSE REMAIN LIABLE TO THE PROJECT UNDER THE COMPLETION AGREEMENT.

CONSIDERATION MIGHT BE GIVEN TO THE ISSUANCE AND SALE TO POLECO OR OTHERS OF AN ADDITIONAL 470,000 SHARES OF STOCK AT \$1.00, ORIGINAL STOCK PRICE, ON BASIS THAT THE INJECTION OF SAID FUNDS AS EQUITY BE IN SATISFACTION OF OBLIGATIONS OF THE COMPLETION AGREEMENT, AND THAT UNITED U.S. AND PICA RETAIN THEIR PRESENT STOCK INTERESTS. WHETHER OR NOT UNITED U.S. UNCLASSIFIED

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SELLS ITS SHARES IN THE COMPANY IS A MATTER TO BE DETERMINED BY UNITED

U.S. IF UNITED U.S. ELECTS TO SELL, OPIC WOULD LOSE SECURITY OF UNITED U.S. PRESENCE AND STAKE IN PROJECT AS INDUCEMENT TO PERFORM ITS COMPLETION AGREEMENT OBLIGATIONS, THEREFORE, OPIC WILL CONSENT TO SUCH DEPARTURE FROM SHARE RETENTION AGREEMENT UPON THE FOLLOWING TERMS AND CONDITIONS:

A. PURCHASERS MUST BE ACCEPTABLE TO OPIC AND AGREE TO VOTE SUCH SHARES AND OTHERWISE MANAGE THE COMPANY SO THAT THE PURPOSE AND PROVISIONS OF THE OPIC LOAN AGREEMENT WILL BE CARRIED OUT.

B. COMPLETION AGREEMENT OBLIGATIONS OF UNITED U.S. MUST FIRST BE MET TO THE SATISFACTION OF OPIC, I.E. UNITED U.S. MUST INVEST OR CAUSE THE INVESTMENT OF FUNDS TO MEED (1) PHYSICAL

COMPLETION OVERRUN COSTS, ESTIMATED TODAY AT \$200,000; (II) WORKING CAPITAL REQUIREMENTS, ESTIMATED AT \$200,000; AND (III) WORKING CAPITAL DEFICIENCY AS OF DECEMBER 31, 1973 OF \$70,000. COMPLETION AGREEMENT SHALL GOVERN TERMS OF SUCH INVESTMENT (EQUITY OR LONG TERM SUBORDINATED LOANS). UNITED U.S. IS LIABLE TO OPIC TO MAKE OR CAUSE SUCH TOTAL INVESTMENTS TO BE MADE BY OTHERS, NOTWITHSTANDING ANY SIDE AGREEMENT(S) UNITED U.S. MAY HAVE WITH POLECO, GENTREX, AND/OR OTHERS TO SHARE SUCH INVESTMENT.

C. TECHNICAL ASSISTANCE AGREEMENT SHOULD BE TERMINATED, EFFECTIVE UPON PLANT COMPLETION, TO ELIMINATE ANY FURTHER EXPENSE. PROVISIONS SHOULD BE MADE FOR QUALITY CONTROL. MARKETING AGREEMENT SHOULD BE MODIFIED ON A BASIS EQUITABLE TO COMPANY, AND UNITED U.S. SUBJECT TO THE APPROVAL OF STOCKHOLDERS, BOARD OF DIRECTORS, AND OPIC.

EMPLOYMENT OF RUPPERT AS GENERAL MANAGER TO SUCCEED SIEBERS IS A MATTER FOR BOARD OF DIRECTORS. WE UNDERSTAND SIEBERS HAS BEEN ILL, AND HE HAS STATED TO AN OPIC REPRESENTATIVE THAT HE RECEIVES NO SUPPORT FROM YOU AND WISHES TO FREE HIMSELF OF HIS DUTIES. AGAIN THE ELIMINATION OR RETENTION OF HODGSON IS A MATTER FOR THE COMPANY'S BOARD OF DIRECTORS. WE HAVE NO INFORMATION AS TO RUPPERT'S EXPERTISE IN THE OPERATION OF A DESICCATED COCONUT PLANT.

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WE REMIND YOU THAT IF THE TERMS OF THE OPIC LOAN AGREEMENT (INCLUDING THE COLLATERAL AGREEMENTS REFERRED TO IN TI) ARE NOT COMPLIED WITH AND EVENTS OF DEFAULT OCCUR, OPIC WILL HAVE TO CONSIDER ACCELERATION OF ITS LOAN.

AS OF MARCH 31, 1974, \$5,000 IS OWED TO OPIC BY THE COMPANY FOR ATTORNEYS' FEES AS PREVIOUSLY AGREED, WHICH HAS NOT BECOME AN OBLIGATION OF UNITED U.S. UNDER THE COMPLETION AGREEMENT.

RE: PARA 6 YOUR APRIL 7 TELEX. MODIFICATION OF MARKETING AGREEMENT HAS BEEN RAISED BY PARKER (LETTER OF MARCH 29, 1974) AND YOURSELF. OPIC HAS CONCURRED THAT CHANGES MAY BE NEEDED; HOWEVER, OPIC HAS NEVER MENTIONED TERMS OF CHANGE AND THEREFORE CERTAINLY HAS NEVER TAKEN POSITION THAT MARKETING AGREEMENT SHOULD BE MODIFIED TO DISADVANTAGE OF UCC. VERY TRULY YOURS, /SX LEO HIELSON DEPUTY TREASURER" RUSH

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